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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,542	01/30/2001	Ehud Levy	40654/252166	9253
23370	7590	04/08/2005	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			CECIL, TERRY K	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/772,542

Applicant(s)

LEVY, EHUD

Examiner

Mr. Terry K. Cecil

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 and 13-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

*Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.*

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by DeLiso et al. (U.S. 5,356,852). DeLiso teaches a homogeneous mixture of activated carbon, organic binder (two part) and a filler which can be Zirconia (col. 10, line 24) that is dried to form a porous honeycomb structure for filtering fluids.<sup>1</sup> The dried honeycomb structure can be 70-100 parts (%) by weight activated carbon and 2-25 parts organic binder (1-15 parts of the first binder portion and 1-20 parts of the second binder portion), see col. 2, lines 51-58. The composition can also include up to 75% of a zirconia filler to impart specific

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<sup>1</sup> The phrase “for drinking water” in the preamble of claim 1 is considered to be an intended use thereof that fails to further define the structure of the composition. However, it is pointed out that water can be in the form of a vapor.

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characteristics to be the structure (col. 5, lines 30-44), which includes the ranges of claims 1-3.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLiso.

DeLiso has been expanded above and teaches the claimed ranges. Although DeLiso teaches an activated carbon content of 70-100 % of total composition, he also teaches a zirconia filler up to 75% which would less the aforementioned percentage of activated carbon. The amount of zirconia added would depend upon the characteristics desired for the filter, including hydrocarbon adsorptive ability (col. 3, line 2) or those of col. 5, lines 30-32. This depends upon the characteristics of the fluid to be filtered (e.g. amount of pollution, etc.) and such is within ordinary skill to optimize. Concerning the size limitation less than about 20 cubic inches, it would have been obvious to size the filter depending upon the location where it is to be used—e.g. the size of the gasoline pump nozzle (col. 1, line 21) [as in claims 4-6].

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5. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLiso. In addition to that cited above, Deliso also teaches a filler that can be a mixture of zirconia and alumina (col. 10, lines 23-25) and in a range up to 75% or preferably 20-50% (col. 5, line 43). The amount of filler mixture added would be within ordinary skill depending upon the characteristics of the fluid to be filtered (as explained above). For example, adding filler within the preferred range, decreases the weight percentage of activated carbon within the total composition to within the claimed range. It is a matter of optimization and is within ordinary skill.

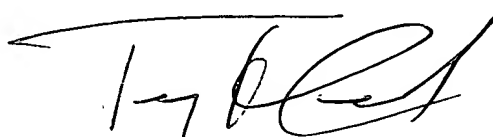
***Response to Arguments***

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

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7. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is 703-872-9306.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil  
Primary Examiner  
Art Unit 1723

TKC  
April 6, 2005